

ANDERSON EXHIBIT 2E

CIVIL ACTION NO. 00 CV 10698 MLW

DEFENDANT MYLAN PHARMACEUTICALS					
Drug	NDC #	WEAC DEAC	Relator's Cost (in or about January 2001)	WEAC Provider's Gross Profit \$ DEAC Provider's Gross Profit \$	WEAC Provider' s Gross Profit % DEAC Provider' s Gross Profit %
Propranolol HCL 20 mg Tab 100's	00378-0183-01	\$4.03 \$ \$	\$2.38	\$1.65 \$	41% %
Propranolol HCL 20 mg Tab 1000's	00378-0183-10	\$29.12 \$ \$	\$9.47	\$19.65 \$	67% %
Propranolol HCL 40 mg Tab 100's	00378-0184-01	\$5.15 \$ \$	\$2.84	\$2.31 \$	45% %
Propranolol HCL 40 mg Tab 1000's	00378-0184-10	\$40.32 \$ \$	\$17.17	\$23.15 \$	57% %
Propranolol HCL 80 mg Tab 100's	00378-0185-01	\$8.51 \$ \$	\$3.49	\$5.02 \$	59% %
Propranolol HCL 80 mg Tab 500's	00378-0185-05	\$38.08 \$ \$	\$13.03	\$25.05 \$	66% %
Propranolol HCTZ 25 - 40 mg Tab 100's	00378-0731-01	\$5.88 \$ \$	\$3.05	\$2.83 \$	48% %
Propranolol HCTZ 25 - 80 mg Tab 100's	00378-0347-01	\$8.73 \$ \$	\$4.47	\$4.26 \$	49% %
Ranitidine 150 mg Tab 60's	00378-3252-91	\$15.67 \$ \$	\$4.36	\$11.31 \$	72% %

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DEFENDANT MYLAN PHARMACEUTICALS					
Drug	NDC #	WEAC DEAC	Relator's Cost (in or about January 2001)	WEAC Provider's Gross Profit \$ DEAC Provider's Gross Profit \$	WEAC Provider' s Gross Profit % DEAC Provider' s Gross Profit %
Ranitidine 150 mg Tab 100's	00378-3252-01	\$25.48 \$ \$	\$7.34	\$18.14 \$	71% %
Ranitidine 150 mg Tab 500's	00378-3252-05	\$123.20 \$ \$	\$34.88	\$88.32 \$	72% %
Ranitidine 300 mg Tab 30's	00378-3254-93	\$15.68 \$ \$	\$5.33	\$10.35 \$	66% %
Ranitidine 300 mg Tab 100's	00378-3254-01	\$50.96 \$ \$	\$15.98	\$34.98 \$	69% %
Ranitidine 300 mg Tab 500's	00378-3254-05	\$246.40 \$ \$	\$81.52	\$164.88 \$	67% %
Spironolactone 25 mg Tab 100's	00378-2146-01	\$22.40 \$ \$	\$11.91	\$10.49 \$	47% %
Spironolactone 25 mg Tab 500's	00378-2146-05	\$105.28 \$ \$	\$55.55	\$49.73 \$	47% %
Spironolactone/HCT Z 25/25 Tab 100's	00378-0141-01	\$24.08 \$ \$	\$13.23	\$10.85 \$	45% %
Spironolactone/HCT Z 25/25 Tab 500's	00378-0141-05	\$113.68 \$ \$	\$62.16	\$51.52 \$	45% %

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DEFENDANT MYLAN PHARMACEUTICALS					
Drug	NDC #	WEAC DEAC	Relator's Cost (in or about January 2001)	WEAC Provider's Gross Profit \$ DEAC Provider's Gross Profit \$	WEAC Provider' s Gross Profit % DEAC Provider' s Gross Profit %
Terazosin HCL 10 mg Cap 100's	00378-1570-01	\$125.83 \$ \$	\$41.27	\$84.56 \$	67% %
Terazosin HCL 1 mg Cap 100's	00378-2260-01	\$125.83 \$ \$	\$41.27	\$84.56 \$	67% %
Terazosin HCL 2 mg Cap 100's	00378-2264-01	\$125.83 \$ \$	\$41.27	\$84.56 \$	67% %
Terazosin HCL 5 mg Cap 100's	00378-2268-01	\$125.83 \$ \$	\$41.27	\$84.56 \$	67% %
Thioridazine HCL 10 mg Tab 100's	00378-0612-01	\$11.53 \$ \$	\$6.28	\$5.25 \$	46% %
Thioridazine HCL 10 mg Tab 1000's	00378-0612-10	\$106.40 \$ \$	\$61.54	\$44.86 \$	42% %
Thioridazine HCL 25 mg Tab 100's	00378-0614-01	\$13.55 \$ \$	\$7.82	\$5.73 \$	42% %
Thioridazine HCL 25 mg Tab 1,000's	00378-0614-10	\$126.56 \$ \$	\$73.37	\$53.19 \$	42% %
Thioridazine HCL 50 mg Tab 100's	00378-0616-01	\$21.67 \$ \$	\$11.44	\$10.23 \$	47% %

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DEFENDANT MYLAN PHARMACEUTICALS					
Drug	NDC #	WEAC DEAC	Relator's Cost (in or about January 2001)	WEAC Provider's Gross Profit \$ DEAC Provider's Gross Profit \$	WEAC Provider' s Gross Profit % DEAC Provider' s Gross Profit %
Thioridazine HCL 50 mg Tab 1000's	00378-0616-10	\$207.76 \$ \$	\$120.71	\$87.05 \$	42% %
Thioridazine HCL 100 mg Tab 100's	00378-0618-01	\$28.56 \$ \$	\$15.64	\$12.92 \$	45% %
Thioridazine HCL 100 mg Tab 1000's	00378-0618-10	\$276.64 \$ \$	\$160.35	\$116.29 \$	42% %
Thiothixene 1 mg Cap 100's	00378-1001-01	\$6.66 \$ \$	\$3.89	\$2.77 \$	42% %
Thiothixene 2 mg Cap 100's	00378-2002-01	\$8.90 \$ \$	\$5.15	\$3.75 \$	42% %
Thiothixene 2 mg Cap 1,000's	00378-2002-10	\$78.34 \$ \$	\$51.18	\$27.16 \$	35% %
Thiothixene 5 mg Cap 100's	00378-3005-01	\$12.60 \$ \$	\$7.60	\$5.00 \$	40% %
Thiothixene 5 mg Cap 1000's	00378-3005-10	\$117.60 \$ \$	\$73.13	\$44.47 \$	38% %
Thiothixene 10 mg Cap 100's	00378-5010-01	\$18.76 \$ \$	\$10.65	\$8.11 \$	43% %

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DEFENDANT MYLAN PHARMACEUTICALS					
Drug	NDC #	WEAC DEAC	Relator's Cost (in or about January 2001)	WEAC Provider's Gross Profit \$	WEAC Provider' s Gross Profit %
Thiothixene 10 mg Cap 1,000's	00378-5010-10	\$173.60 \$ \$	\$111.83	\$61.77 \$	36% %
Timolol Maleate 5 mg Tab 100's	00378-0055-01	\$12.88 \$ \$	\$8.23	\$4.65 \$	36% %
Timolol Maleate 10 mg Tab 100's	00378-0221-01	\$17.86 \$ \$	\$12.55	\$5.31 \$	30% %
Timolol Maleate 20 mg Tab 100's	00378-0715-01	\$35.78 \$ \$	\$22.37	\$13.41 \$	37% %
Tolazamide 25 mg Tab 100's	00378-0217-01	\$9.52 \$ \$	\$6.17	\$3.35 \$	35% %
Tolazamide 500 mg Tab 100's	00378-0551-01	\$18.48 \$ \$	\$11.46	\$7.02 \$	38% %
Tolbutamide 500 mg Tab 100's	00378-0215-01	\$13.78 \$ \$	\$7.40	\$6.38 \$	46% %
Tolbutamide 500 mg Tab 500's	00378-0215-05	\$67.59 \$ \$	\$34.61	\$32.98 \$	49% %
Triamter/HCTZ 37.5/25 Cap 100's	00378-2537-01	\$23.76 \$ \$	\$11.18	\$12.58 \$	53% %

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DEFENDANT MYLAN PHARMACEUTICALS					
Drug	NDC #	WEAC DEAC	Relator's Cost (in or about January 2001)	WEAC Provider's Gross Profit \$ DEAC Provider's Gross Profit \$	WEAC Provider' s Gross Profit % DEAC Provider' s Gross Profit %
Triamter/HCTZ 37.5/25 Cap 1000's	00378-2537-10	\$228.43 \$ \$	\$106.23	\$122.20 \$	53% %
TriamterHCTZ 37.5/25 Tab 100's	00378-1352-01	\$22.84 \$ \$	\$10.35	\$12.49 \$	55% %
Triamter/HCTZ 37.5/25 Tab 500's	00378-1352-05	\$111.09 \$ \$	\$44.85	\$66.24 \$	60% %
Triamter/HCTZ 75/50 Tab 100's	00378-1355-01	\$4.48 \$ \$	\$2.53	\$1.95 \$	44% %
Triamter/HCTZ 75/50 Tab 500's	00378-1355-05	\$20.16 \$ \$	\$9.41	\$10.75 \$	53% %
Trifluoperazine HCL 1 mg 100's	00378-2401-01	\$18.16 \$	\$10.60	\$7.56 \$	42% %
Trifluoperazine HCL 2 mg 100's	00378-2402-01	\$26.52 \$ \$ \$	\$15.34	\$11.18 \$	42% %
Trifluoperazine HCL 5 mg 100's	00378-2405-01	\$31.88 \$ \$	\$17.73	\$14.15 \$	44% %
Trifluoperazine HCL 5 mg 500's	00378-2405-05	\$141.89 \$ \$	\$84.24	\$57.65 \$	41% %

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DEFENDANT MYLAN PHARMACEUTICALS					
Drug	NDC #	WEAC DEAC	Relator's Cost (in or about January 2001)	WEAC Provider's Gross Profit \$ DEAC Provider's Gross Profit \$	WEAC Provider' s Gross Profit % DEAC Provider' s Gross Profit %
Trifluoperazine HCL 10 mg 100's	00378-2410-01	\$40.34 \$ \$	\$23.59	\$16.75 \$	42% %
Trifluoperazine HCL 10 mg 500's	00378-2410-05	\$181.54 \$ \$	\$112.04	\$69.50 \$	38% %
Verapamil 80 mg Tab 100's	00378-0512-01	\$4.64 \$ \$	\$3.49	\$1.15 \$	25% %
Verapamil 80 mg Tab 1000's	00378-0512-10	\$40.60 \$ \$	\$30.71	\$9.89 \$	24% %
Verapamil 120 mg Tab 500's	00378-0772-05	\$31.69 \$ \$	\$21.90	\$9.79 \$	31% %
Verapamil HCL ER 120 mg Tab (Isoptin) 100's	00378-1120-01	\$67.43 \$ \$	\$45.26	\$22.17 \$	33% %
Verapamil HCL ER 240 mg Tab (Isoptin) 100's	00378-0411-01	\$20.16 \$ \$	\$13.61	\$6.55 \$	32% %
Verapamil HCL ER 240 mg Tab (Isoptin) 500's	00378-0411-05	\$87.92 \$ \$	\$58.29	\$29.63 \$	34% %
Verapamil HCL ER 120 mg Caps (Verelan) 100's	00378-6320-01	\$61.60 \$ \$	\$41.27	\$20.33 \$	33% %

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DEFENDANT MYLAN PHARMACEUTICALS					
Drug	NDC #	WEAC DEAC	Relator's Cost (in or about January 2001)	WEAC Provider's Gross Profit \$ DEAC Provider's Gross Profit \$	WEAC Provider' s Gross Profit % DEAC Provider' s Gross Profit %
Verapamil HCL ER 180 mg Caps (Verelan) 100's	00378-6380-01	\$64.96 \$ \$	\$44.84	\$20.12 \$	31% %
Verapamil HCL ER 240 mg Caps (Verelan) 100's	00378-6440-01	\$73.92 \$ \$	\$49.52	\$24.40 \$	33% %

98. In addition to falsely inflating its drug price representations for Medicaid reimbursement purposes, DEFENDANT MYLAN PHARMACEUTICALS failed to pay the States' Medicaid Programs the full amount of the Medicaid rebate required by 42 U.S.C. §1396r-8(b)(1)(A) for drugs specified herein. Medicaid rebate amounts are intended to enable the Medicaid programs to benefit from the best drug prices available to large commercial customers. DEFENDANT MYLAN PHARMACEUTICALS was required to truthfully report Average Manufacturers Prices (AMP) for the specified drugs to the Health Care Financing Administration ("HCFA") pursuant to 42 U.S.C. §1396r-8(b)(3)(A) and 42 U.S.C. §1396r-8(b)(3)(C)(ii). The Medicaid rebate amount is sufficient to meet the intent of the Rebate Statute only when MYLAN's WAC amounts, used for reimbursement, are also truthfully reported. MYLAN's AMP reports for the specified drugs are excessively less than its reports of WAC. Accordingly, MYLAN's false reports of prices

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include any AMPs that it understated and/or WACs that it overstated. The Federal Government's expenditures increased as a direct result of DEFENDANT MYLAN PHARMACEUTICALS' underpayment of its Medicaid rebate obligations, and/or manipulation of Medicaid reimbursement amounts.

99. As a direct and proximate result of the actions of the DEFENDANT MYLAN PHARMACEUTICALS alleged herein, the UNITED STATES has sustained damages recoverable under the False Claims Act, together with treble damages, penalties, attorneys' fees and costs.

**SECTION NO. 10
THE SPECIFIC FALSE PRICE AND COST
REPRESENTATIONS OF DEFENDANT ROXANE**

100. At various times from on or after April 7, 1994, and continuing through the present date, DEFENDANT ROXANE knowingly caused the States' Medicaid programs to pay false or fraudulent claims for drugs specified in this Section and further made or used false or fraudulent records and/or statements to get such claims paid or approved. As a result of the actions of DEFENDANT ROXANE and those persons and entities acting directly or indirectly in concert with DEFENDANT ROXANE, the States' Medicaid Programs paid grossly excessive, unreasonable and unlawful amounts for claims for the drugs specified in this Section. The acts committed by DEFENDANT ROXANE that caused the States' Medicaid Programs to pay or approve said false or fraudulent claims included, but were not necessarily limited to, knowingly making false or fraudulent representations about the wholesaler prices of the drugs specified in this Section which DEFENDANT ROXANE knew would be relied upon by the States' Medicaid Programs in paying or approving claims

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for the drugs specified in this Section. Each of said representations were material and were relied upon by the States' Medicaid Programs in paying or approving claims for the drugs specified in this Section.

101. DEFENDANT ROXANE knowingly caused its false or fraudulent wholesaler price representations to be transmitted by First Data Bank's automated services, made or used false records or statements regarding its wholesaler prices of the drugs specified in this section and submitted them to the States' Medicaid Programs continuously throughout the years specified in this section. Within this paragraph is a table, organized by drug and NDC number, which reflects the recent false wholesaler prices in First Data Bank's automated services. The information in the table under the heading "ROXANE'S Reported False WACs" reflects DEFENDANT ROXANE'S false representations of price it charged wholesalers for drugs. The heading "Relator's Cost" reflects the true price that DEFENDANT ROXANE charged the Relator for the drug or caused another entity to charge the Relator for the drug.

DRUG STRENGTH & SIZE, NDC#s	ROXANE'S REPORTED FALSE WACs	RELATOR'S COST (in or about March 2000)
IPRATROPIUM BROMIDE 2.5ml 25's 00054-8402-11	\$15.45	\$12.95

102. The false price and cost representations, as they were submitted to the State of Texas on or after April 7, 1994, are organized in a chart within this paragraph by "Drug", "NDC Number", Texas Medicaid Payment Amount ("WEAC"/"DEAC"), "Relator's Cost", the "Gross Profit" and the percentage of "Gross Profit." The amount under the heading

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"Relator's Cost" is the true price that DEFENDANT ROXANE charged the Relator for the drug or caused another entity to charge the Relator for the drug. A comparison of the Relator's cost with DEFENDANT ROXANE'S price representations shows the falsity of DEFENDANT ROXANE'S price representations for the specified drugs. Furthermore, the table shows the materiality of DEFENDANT ROXANE'S false statements because it shows health care providers made a profit for prescribing DEFENDANT ROXANE'S drugs. Texas Medicaid, which intended to pay for drugs based upon estimated acquisition costs, never intended to pay the amounts under the heading "Gross Profit."

DEFENDANT ROXANE					
Drug	NDC #	WEAC DEAC	RELATOR'S COST (in or about March 2000)	WEAC Provider's Gross Profit \$ DEAC Provider's Gross Profit \$	WEAC Provider's Gross Profit % DEAC Provider's Gross Profit %
Ipratropium Bromide 2.5 ml, 25's	00054-8402-11	0.36736/ml <u>\$22.96</u> .3608/ml <u>\$22.55</u>	\$11.72	\$11.24 <u>\$10.83</u>	49% <u>48%</u>
Ipratropium Bromide 2.5 ml, 60's	00054-8402-21	0.36736/ml <u>\$55.10</u> .360800/ml <u>\$54.12</u>	\$28.12	\$26.98 <u>\$26.00</u>	49% <u>48%</u>

103. As a direct and proximate result of the actions of the DEFENDANT ROXANE alleged herein, the UNITED STATES has sustained damages recoverable under the False Claims Act, together with treble damages, penalties, attorneys' fees and costs.

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SECTION NO. 11
THE SPECIFIC FALSE PRICE AND COST
REPRESENTATIONS OF DEFENDANT
SCHEIN

104. At various times from on or after April 7, 1994, and continuing through the present date, DEFENDANT SCHEIN knowingly caused the States' Medicaid programs to pay false or fraudulent claims for drugs specified in this Section and further made or used false or fraudulent records and/or statements to get such claims paid or approved. As a result of the actions of DEFENDANT SCHEIN and those persons and entities acting directly or indirectly in concert with DEFENDANT SCHEIN, the States' Medicaid Programs paid grossly excessive, unreasonable and unlawful amounts for claims for the drugs specified in this Section. The acts committed by DEFENDANT SCHEIN that caused the States' Medicaid Programs to pay or approve said false or fraudulent claims included, but were not necessarily limited to, knowingly making false or fraudulent representations about the wholesaler prices of the drugs specified in this Section which DEFENDANT SCHEIN knew would be relied upon by the States' Medicaid Programs in paying or approving claims for the drugs specified in this Section. Each of said representations were material and were relied upon by the States' Medicaid Programs in paying or approving claims for the drugs specified in this Section.

105. DEFENDANT SCHEIN knowingly caused its false or fraudulent wholesaler price representations to be transmitted by First Data Bank's automated services, made or used false records or statements regarding its wholesaler prices of the drugs specified in this section and submitted them to the States' Medicaid Programs continuously throughout

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the years specified in this section. Within this paragraph is a table, organized by drug and NDC number, which reflects the recent false wholesaler prices in First Data Bank's automated services. The information in the table under the heading "SCHEIN'S False Reported WAC" reflects DEFENDANT SCHEIN'S false representations of price it charged wholesalers for drugs. The heading "Relator's Cost" reflects the true price that DEFENDANT SCHEIN charged the Relator for the drug or caused another entity to charge the Relator for the drug.

DRUG STRENGTH & SIZE, NDC#s	SCHEIN'S FALSE REPORTED WAC	RELATOR'S COST (in or about March 2000)
Methylphen 20 mg Tab 00364-0562-02	\$495.55	\$268.59
Methylphen 20mg Tab 00364-0562-01	\$50.85	\$23.54
Methylphen 5 mg Tab 00364-0561-02	\$241.65	\$138.50
Methylphen 5 mg Tab 00364-0561-01	\$24.80	\$11.59
Lactulose Solution 10 g/15 ml Syrup/Ounce 00364-2519-32	\$17.40	\$10.64
Orphenad ER 100 mg Tab 00364-2830-01	\$121.50	\$81.70
Ketoprofen CP E 200 mg Cap 00364-2667-01	\$175.88	\$91.43

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DRUG STRENGTH & SIZE, NDC#s	SCHEIN'S FALSE REPORTED WAC	RELATOR'S COST (in or about March 2000)
Verapam SR 240 Mg Cap 00364-2884-01	\$89.55	\$49.25

106. The false price and cost representations, as they were submitted to the State of Texas on or after April 7, 1994, are organized in a chart within this paragraph by "Drug", "NDC Number", Texas Medicaid Payment Amount ("WEAC"/"DEAC"), "Relator's Cost", the "Gross Profit" and the percentage of "Gross Profit." The amount under the heading "Relator's Cost" is the true price that DEFENDANT SCHEIN charged the Relator for the drug or caused another entity to charge the Relator for the drug. A comparison of the Relator's cost with DEFENDANT SCHEIN'S price representations shows the falsity of DEFENDANT SCHEIN'S price representations for the specified drugs. Furthermore, the table shows the materiality of DEFENDANT SCHEIN'S false statements because it shows health care providers made a profit for prescribing DEFENDANT ABBOTT'S drugs. Texas Medicaid, which intended to pay for drugs based upon estimated acquisition costs, never intended to pay the amounts under the heading "Gross Profit."

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DEFENDANT SCHEIN					
Drug	NDC #	WEAC DEAC	Relator's Cost (in or about January 2001)	WEAC Provider's Gross Profit \$	WEAC Provider' s Gross Profit %
Methylphen 20 mg Tab 1,000's	00364-0562-02	\$555.01 \$550.61	\$268.59	\$286.42 \$282.02	52% 51%
Methylphen 20mg Tab 100's	00364-0562-01	\$56.95 \$56.50	\$23.54	\$33.41 \$32.96	59% 58%
Methylphen 5 mg Tab 1,000's	00364-0561-02	\$270.64 \$268.50	\$138.50	\$132.14 \$130.00	49% 48%
Methylphen 5 mg Tab 100's	00364-0561-01	\$27.77 \$27.59	\$11.59	\$16.18 \$16.00	58% 58%
Lactulose Solution 10 g/15 ml Syrup/Ounce 946 ml	00364-2519-32	\$19.48 \$19.31	\$10.64	\$8.84 \$8.67	45% 45%
Orphenad ER 100 mg Tab 100's	00364-2830-01	\$136.08 \$135.00	\$81.70	\$54.38 \$53.30	40% 39%
Ketoprofen CP E 200 mg Cap 100's	00364-2667-01	\$196.98 \$185.14	\$91.43	\$105.55 \$93.71	54% 51%
Verapam SR 240 Mg Cap 100's	00364-2884-01	\$100.29 \$99.50	\$49.25	\$51.04 \$50.25	51% 51%

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107. As a direct and proximate result of the actions of the DEFENDANT SCHEIN alleged herein, the UNITED STATES has sustained damages recoverable under the False Claims Act, together with treble damages, penalties, attorneys' fees and costs.

**SECTION NO. 12
THE SPECIFIC FALSE PRICE AND COST
REPRESENTATIONS OF DEFENDANT
WARRICK**

108. At various times from on or after April 7, 1994, and continuing through the present date, DEFENDANT WARRICK knowingly caused the States' Medicaid programs to pay false or fraudulent claims for drugs specified in this Section and further made or used false or fraudulent records and/or statements to get such claims paid or approved. As a result of the actions of DEFENDANT WARRICK and those persons and entities acting directly or indirectly in concert with DEFENDANT WARRICK, the States' Medicaid Programs paid grossly excessive, unreasonable and unlawful amounts for claims for the drugs specified in this Section. The acts committed by DEFENDANT WARRICK that caused the States' Medicaid Programs to pay or approve said false or fraudulent claims included, but were not necessarily limited to, knowingly making false or fraudulent representations about the wholesaler prices of the drugs specified in this Section which DEFENDANT WARRICK knew would be relied upon by the States' Medicaid Programs in paying or approving claims for the drugs specified in this Section. Each of said representations were material and were relied upon by the States' Medicaid Programs in paying or approving claims for the drugs specified in this Section.

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109. DEFENDANT WARRICK knowingly caused its false or fraudulent wholesaler price representations to be transmitted by First Data Bank's automated services, made or used false records or statements regarding its wholesaler prices of the drugs specified in this section and submitted them to the States' Medicaid Programs continuously throughout the years specified in this section. Within this paragraph is a table, organized by drug and NDC number, which reflects the recent false wholesaler prices in First Data Bank's automated services. The information in the table under the heading "WARRICK'S False Reported WAC" reflects DEFENDANT WARRICK'S false representations of price it charged wholesalers for drugs. The heading "Relator's Cost" reflects the true price that DEFENDANT WARRICK charged the Relator for the drug or caused another entity to charge the Relator for the drug.

DRUG STRENGTH & SIZE, NDC#s	WARRICK'S FALSE REPORTED WAC	RELATOR'S COST (in or about March 2000)
ALBUTEROL INHALATION AEROSOL 17 gm 59930-1560-01	\$10.71	\$2.58
ALBUTEROL INHALATION AEROSOL (refill) 17 gm 59930-1560-02	\$9.99	\$2.49

110. The false price and cost representations, as they were submitted to the State of Texas on or after April 7, 1994, are organized in a chart within this paragraph by "Drug", "NDC Number", Texas Medicaid Payment Amount ("WEAC"/"DEAC"), "Relator's Cost", the "Gross Profit" and the percentage of "Gross Profit." The amount under the heading

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"Relator's Cost" is the true price that DEFENDANT WARRICK charged the Relator for the drug or caused another entity to charge the Relator for the drug. A comparison of the Relator's cost with DEFENDANT WARRICK'S price representations shows the falsity of DEFENDANT WARRICK'S price representations for the specified drugs. Furthermore, the table shows the materiality of DEFENDANT WARRICK'S false statements because it shows health care providers made a profit for prescribing DEFENDANT WARRICK'S drugs. Texas Medicaid, which intended to pay for drugs based upon estimated acquisition costs, never intended to pay the amounts under the heading "Gross Profit."

DEFENDANT WARRICK					
Drug	NDC #	WEAC DEAC	Relator's Cost (in or about March 2000)	WEAC Provider's Gross Profit \$ DEAC Provider's Gross Profit \$	WEAC Provider' s Gross Profit % DEAC Provider' s Gross Profit %
Albuterol 17 gm	59930-1560-01	\$0.705600/gm \$11.99 _____	\$2.58	\$9.41 _____	78% _____
Albuterol refill	59930-1560-02	\$0.652230/gm \$11.09 _____	\$2.49	\$8.60 _____	78% _____

111. As a direct and proximate result of the actions of the DEFENDANT WARRICK alleged herein, the UNITED STATES has sustained damages recoverable under the False Claims Act, together with treble damages, penalties, attorneys' fees and costs.

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SECTION NO. 13
DEFENDANT DEY'S MEDICAID REBATE FRAUD

112. DEY, INC. ("DEY") perpetrated a Medicaid rebate fraud scheme regarding DEY'S distribution of Glaxo Wellcome's ("Glaxo") innovator multiple source inhalant drug Ventolin. DEY fraudulently repackaged and distributed a "generic" for Ventolin, Albuterol Sulfate MDI aerosol and its refill and the multi-dose inhalation solution concentrate, when DEY was actually selling and distributing Glaxo's innovator multiple source drug Ventolin under a secret exclusive USA distribution agreement in order to: (1) defraud the States' Medicaid Programs by DEY paying to the States the lower 11% rebate rather than the 15.1% or greater innovator multiple source drug rebate that DEY was obligated to pay by law; (2) split between DEY and Glaxo the profits enhanced by paying less Medicaid rebate than mandated by federal law. DEY has no Abbreviated New Drug Application approved by the FDA to sell either the MDI aerosol form of Albuterol and its refill nor the multi-dose concentrate form of Albuterol. DEY, in fact, states on pages 26 - 27 of its form S-1 for an Initial Public Offering of securities filed with the U.S. Securities and Exchange Commission on July 24, 1998 (withdrawn by DEY on August 20, 1999), that these two products are manufactured for DEY by Glaxo Wellcome, "manufacturer of the brand version of the product", Ventolin.

a. DEY'S Medicaid Rebate Fraud Scheme.

113. Ven-A-Care's investigation has determined that DEY, INC. ("DEY") is involved in a scheme to defraud the States' Medicaid Programs: by DEY being the United States exclusive distributor of Glaxo's multi-source innovator drug, Ventolin; by DEY falsely

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reporting Glaxo's Ventolin as DEY'S generic Albuterol Sulfate; by DEY fraudulently paying the States' Medicaid Programs the lower "other covered outpatient (generic) drug" rebate of 11% of AMP per unit rather than paying the higher required innovator rebate amount of 15.1% (or greater) of AMP per unit; and by DEY and Glaxo splitting profits of the fraud scheme, including the fraudulent "savings" of a minimum of 4.1% Medicaid rebate illegally not paid to the States' Medicaid Programs.

114. The Medicaid rebate fraud scheme involves DEY'S Albuterol Sulfate 17 gram inhaler (NDC #49502-0303-17), the refill for that inhaler (NDC #49502-0303-27) and the 5 percent 20 ml inhalation solution concentrate (NDC #49502-0196-20). These drugs are commonly referred to as Albuterol Metered Dose Inhaler or 17 gram inhaler, its refill and the half percent multi-dose inhalation concentrate.

b Required Medicaid Rebate for Single Source and Multi-Source Innovator Drugs

115. The fraud involves DEY fraudulently reporting Glaxo's Ventolin as DEY'S generic Albuterol Sulfate in order to reap illegally the minimum savings of 4.1% on Medicaid rebates it is required to pay to the States' Medicaid Programs under law. In order for their customers to obtain reimbursement for drugs from the States' Medicaid Programs, drug manufacturers, including DEY, must enter into an agreement with the Secretary of the U.S. Department of Health and Human Services on behalf of the States that requires the manufacturers to pay periodic rebates to the States on sales of the manufacturers' drugs to Medicaid program recipients. 42 U.S.C. § 1396r-8(a)(1). However, the rebate for single source drugs and multi-source innovator drugs (together sometime referred to as

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"innovator drugs") is greater than the rebate for other drugs (generic). The amount of the rebate for a single source drug and innovator multiple source drugs is the total units paid under the State plan x the greater of either: (1) AMP minus Best Price; or (2) the minimum rebate percentage (as of 12/31/95 the minimum rebate was 15.1%) x AMP. 42 USC § 1396r-8(c)(1)(A) and (B). There is an additional rebate for innovator drugs if the total units x AMP amount exceeds AMP beginning July 1, 1990 (or the drug's launch date) x the CPI-U increase from the September 19, 1990 (or the drug's launch date) CPI-U to date. 42 USC § 1396r-8(c)(2).

c. Required Medicaid Rebate for Other Drugs (Generic)

116. The amount of rebate required to be paid by drug manufacturers to the States' Medicaid Programs for other covered outpatient drugs (generic drugs) is: total units x AMP x 11%. 42 USC § 1396r-8(c)(3)(A) and (B).

d. Distributor of Innovator Drug Must Pay the Same Medicaid Rebate as the Innovator

117. The focus for the fraud scheme is on the requirement that a distributor, repackager, or relabeler of the prescription drug product must pay the same Medicaid rebate that the producer of the product is required to pay since they are all included in the definition of "manufacturer" in the rebate statute. 42 USC § 1396r-8(k)(5)(B). Also, the Medicaid rebate statute defines "innovator multiple source drug" as a multiple source drug that was originally marketed under an original new drug application ("NDA") approved by the Food & Drug Administration ("FDA"). 42 USC

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§ 1396r-8(k)(7)(A)(ii). Therefore, the distributor of an innovator multiple source drug must pay at least the minimum rebate percentage of 15.1% x AMP x the number of units of the distributor's drug states' Medicaid agencies paid for.

e. Facts of DEY'S Medicaid Rebate Fraud

118. The FDA's New Drug Application ("NDA") for Ventolin Aerosol Metered Inhalation and the multi-dose inhalation solution concentrate shows that the patent was held by Glaxo Wellcome. Glaxo's innovator drug is also referred to by the FDA as the Reference Listed Drug ("RLD") and Ventolin is the RLD. Glaxo reported to Red Book that the RLD patent was held by Allen & Hansburys. However, Allen & Hansburys is the Respiratory Division of Glaxo Wellcome.

119. Ven-A-Care downloaded HCFA Covered Drug Products database from the HCFA Medicaid Rebate website listing the drugs whose manufacturers signed a rebate agreement. This database specifically notes that NDC #49502-0303-17, NDC #49502-0303-27 and NDC #49502-0196-20 are non-innovator (generic) drugs. VAC verified with HCFA that this database is used by HCFA when calculating the rebate percentage.

120. Ven-A-Care then reviewed the Orangebook portion of the FDA website which revealed that DEY has no NDA and also has no ANDA for the Albuterol Sulfate MDI inhalers nor for the multi-dose inhalation solution concentrate. The FDA website shows that Glaxo Wellcome has the first NDA for this form of Albuterol

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Sulfate and is, therefore, listed as the innovator drug or RLD. Ven-A-Care then reviewed DEY'S website where DEY stated that DEY is selling Albuterol Sulfate inhalation solution 0.083 %, rated pharmaceutically and therapeutically equivalent to the brand drug Ventolin. The website further stated that DEY'S Albuterol Inhalation Aerosol is manufactured by the innovator. The innovator of Ventolin is Glaxo Wellcome.

121. Ven-A-Care then examined the package Insert that came with DEY'S Albuterol Sulfate MDI inhaler and the multi-dose inhalation solution concentrate and the Insert noted that the product is manufactured Glaxo Wellcome, Inc. In DEY'S documents, #DL 2219, the first sentence of the letter dated January 4, 1996 to Caremark introduced DEY'S Albuterol inhalation aerosol as a "generic alternative to Ventolin Inhalation Aerosol," indicating that the drug distributed by DEY is a generic. The very next sentence stated that the drug "is manufactured by the originator and is distributed by DEY Laboratories . . .", indicating that DEY is a distributor of the innovator RLD drug, Ventolin, not a generic.

f. False Reports to Red Book

122. The federal rebate statute's definitions state that "a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices . . ." 42 USC § 1396r-8(k)(7)(C)(iii). It is clear from the published Redbook listing of average wholesale prices that Ventolin is the

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RLD, the innovator drug whose patent was held by Allen & Hansburys [the Respiratory Division of Glaxo], and that DEY's Albuterol Sulfate MDI, its refill and DEY's multi-dose inhalation solution concentrate are represented by DEY as generic drugs for which DEY is required by FDA laws to have either a NDA or an ANDA. DEY's representations to Red Book are contained in the Red Book listing for DEY's "generic" Albuterol Sulfate which also refers to its equivalent Allen & Hanburys (a Glaxo Welcome Division) branded RLD drug Ventolin. DEY has neither an NDA or an ANDA for these MDI products. However, DEY had falsely reported to Redbook that it has a FDA approved generic Albuterol Sulfate MDI, its refill and a FDA approved multi-dose inhalation solution concentrate under the three specific NDC numbers (NDC#49502-0303-17), (NDC#49502-0303-27) and (NDC #49502-0196-20). Also, DEY's report to Red Book that these drugs are generic is false. In fact, DEY is distributing Glaxo's innovator RLD drug Ventolin.

g. Damages Caused By Overstated WACs and Understated AMPs

123. Medicaid rebate amounts are intended to enable the Medicaid programs to benefit from the best drug prices available to large commercial customers. DEFENDANT DEY was required to truthfully report Average Manufacturers Prices (AMP) for the specified drugs to the Health Care Financing Administration ("HCFA") pursuant to 42 U.S.C. §1396r-8(b)(3)(A) and 42 U.S.C. §1396r-8(b)(3)(C)(ii). The Medicaid rebate amount is sufficient to meet the intent of the Rebate Statute only when DEY's WAC amounts, used for reimbursement, are also truthfully reported. DEY's AMP reports for the

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specified drugs are excessively less than its reports of WAC. Accordingly, DEY's false reports of prices include any AMPs that it understated and/or WACs that it overstated. The Federal Government's expenditures increased as a direct result of DEFENDANT DEY's underpayment of its Medicaid rebate obligations, and/or manipulation of Medicaid reimbursement amounts.

h. DEY's SEC Filings

124. On July 24, 1998, DEY filed a S-1 Prospectus with the United States Securities and Exchange Commission ("SEC") for approval of an initial public offering of 14 million shares of DEY common stock. On page 5, DEY stated, "[d]uring 1997, the Company derived approximately 75% of its revenues from the sales of three sterile, unit dose inhalation solution products, albuterol sulfate (38%), ipratropium bromide (23%) and cromolyn sodium (14%) (the 'Key Products'). . . . Each of the Key Products is a generic version of a prescription drug with respect to which patent protection has lapsed."

125. On page 17 of DEY's July 24, 1998 S-1 filing with the SEC, DEY stated in its overview that:

During the period from 1992 to 1997, the Company experienced significant growth, with net sales increasing from \$50 million in 1992 to \$220 million in 1997. The increase in net sales was primarily due to the introduction of three sterile, unit dose inhalation solution products: albuterol sulfate in 1992, cromolyn sodium in 1994, and ipratropium bromide in 1997. In addition, Dey has maintained annual gross margins of between 61.4% and 74.2% through the introduction of new products and by capturing large market shares during such period.